HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.15331 of 2006

Date : 13-11-2006

Between:

Kondeti Krishna Murthy
and others .. Petitioners

and

The Gram Panchayat, Vella,
Ramachandrapuram Mandal,
East Godavari District
represented by its Panchayat Secretary
and another .. Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.15331 of 2006

ORDER:

1. Heard the Counsel.

2. The Writ Petition is filed for a writ of mandamus declaring the action of 1st respondent-Gram Panchayat in proposing to evict the petitioners from their thatched houses situate in Sy.No.257/1 of Vella Village, Ramachandrapuram Mandal, East Godavari District as illegal, arbitrary, unjust and in violation of principles of natural justice and the fundamental rights guaranteed under the Constitution of India and to pass such other suitable orders.

3. It is stated that the writ petitioners belong to weaker sections of the society and they are not owning any property at all and are doing agricultural coolie work. It is also stated that in the year 1988 the Government issued house site pattas each to an extent of Ac.0.03 cents in Sy.No.257/1 of Vella village as the petitioners have no dwelling houses and are living in unhygienic conditions. It is further stated that when the petitioners tried to erect thatched houses the 1st respondent Gram Panchayat filed W.P.o.19312/98 seeking to cancel the pattas granted to the petitioners and the said Writ Petition was disposed of by an order dated 23-7-1996 giving liberty to the Gram Panchayat to approach the 2nd respondent by filing an appeal. Accordingly, the petitioners and the 1st respondent filed representations before the Joint collector and finally orders had been passed cancelling the pattas of the writ petitioners. It is also further stated that as against the same the writ petitioners filed a revision before the Chief Commissioner of Land Administration, A.P., Hyderabad and the same is pending. It is also stated that the 1st respondent Gram Panchayat has been taking steps to evict the petitioners from the patta land with a view to take vengeance

against the petitioners. It is stated that the petitioners already had erected thatched houses in the said land situate in Sy.No.257/1 and living in those houses along with their families. It is further stated that the petitioners have no other dwelling houses and by spending huge amounts the petitioners erected the thatched houses. The petitioners had been requesting the Gram Panchayat to allot door numbers to their houses but they are not initiating any action in this regard. The petitioners had been in possession and enjoyment of the thatched houses to the knowledge of every one including the authorities. It is further stated that the 1st respondent Gram Panchayat has been taking steps to evict them from the thatched houses for the simple reason that they are not supported by the candidates of a particular political party in the recent Z.P. and M.P.T.C. elections. Several other factual allegations also are made and it is stated that the petitioners are apprehending that they would be evicted without following the due procedure prescribed under law.

4. In the counter affidavit filed by the 1st respondent several allegations are denied. It is stated that the land in R.S.No.257/1 situate at Vella village is a Gram Kantham and the same belongs to the Gram Panchayat. However in the year 1988 the Mandal Revenue Officer, Ramachandrapuram Mandal without any notice and without the permission of the Gram Panchayat issued house site pattas in favour of some of the villagers including some of the petitioners and therefore the Gram Panchayat filed W.P.No.19312/1988 questioning the illegal action of the Mandal Revenue Officer. It is further stated that though the pattas were granted, possession was not handed over to the beneficiaries and ever since the land is in exclusive possession of the Gram Panchayat. It is further stated that this ct directed the Gram Panchayat to file an appeal before the District Collector against the assignment and accordingly an appeal was filed. In the said appeal, the District Collector after following

the due procedure of law cancelled the patta certificates vide proceedings dated 1-6-1998 and therefore it is absolutely incorrect to say that the petitioners are in possession of the land and trying to construct the thatched houses. It is further stated that the petitioners were never inducted into possession of the property. Specific stand is taken that the petitioners are put to strict proof of filing of revision and its pendency. Further specific stand is taken that absolutely there are no orders from any authority adverse to the orders of the District Collector as on date. In para-3 of the counter affidavit specific stand is taken that when the petitioners are never in possession of the land the question of evicting them does not arise. It is also stated that it is incorrect to say that the petitioners had constructed thatched houses. When there are no houses the question of granting house numbers does not arise. It is also further stated that during the recent elections the petitioners with the help of local political leaders tried to encroach upon the land and to raise thatched houses and the same was stopped by the Gram Panchayat and by suppressing the real facts the present Writ Petition is filed. Certain other submissions also were made in para-3 of the counter affidavit.

5. In the light of the respective stands taken by the parties and also in view of the fact that the matter is said to be pending before the Chief Commissioner of Land Administration, A.P., Hyderabad, it would be appropriate to dispose of the Writ Petition directing the respondents to follow the due process of law in the event of the petitioners being in possession of the subject-matter of the Writ Petition.

6. Accordingly the Writ Petition is allowed to the extent indicated above. No order as to costs.

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Justice P.S. Narayana

Date : 13-11-2006

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